

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Docket No.
)	04-10074-JLT
)	
PHILLIP HYDE,)	
)	
Defendant,)	
)	
and)	<u>REQUEST FOR ORAL ARGUMENT</u>
)	
BICKNELL & SMITH,)	
)	
Garnishee)	
)	

JOINT MOTION FOR RECONSIDERATION

The Board of Trustees of the Public School Teachers' Pension and Retirement Fund of Chicago (the "Fund") and the United States of America (the "United States"), hereby respectfully move this Court to reconsider its Order dated April 27, 2006 and entered on the docket on May 1, 2006 (the "Order"), which granted the Amended Motion for Instructions (the "Amended Motion") of defendant Philip Hyde ("Hyde") filed April 27, 2006 (Docket Entry No. 48).

As grounds for this motion for reconsideration, the Fund and the United States respectfully submit as follows:

1. On March 23, 2006, the Court held a hearing on Hyde's original Motion for Instructions, and directed that Hyde file affidavits with the Court to establish which of the expenses listed in his Motion for Instructions remain unpaid.

2. On April 27, 2006, Hyde filed the Amended Motion to which he attached affidavits from various vendors as directed by the Court at the March 23, 2006 hearing.

3. The following day, on April 28, 2006, the Fund filed a reply to the Amended Motion, in which it pointed out that (i) some of the expenses listed in Hyde's original Motion for Instructions had already been paid, and (ii) Hyde was proposing to use the majority of the funds at issue for 19 months of storage, a prospective expense clearly not contemplated when Hyde sold his home. (Docket Entry No. 49). Accordingly, the Fund requested that of the \$15,000 at issue, \$11,191 be turned over to the Clerk of the Court to satisfy the pending restitution order of the Court.

4. The United States filed a reply to the Amended Motion on May 1, 2005, in which it adopted the position set forth by the Fund. (Docket Entry No. 50).

5. However, apparently on April 27, 2006 – the same day Hyde filed the Amended Motion – the Court granted the Amended Motion without giving the Fund or the United States an opportunity to reply or be heard.

WHEREFORE, The Board of Trustees of the Public School Teachers' Pension and Retirement Fund of Chicago and the United States of America respectfully request that the Court:

- (i) reconsider the Order after reviewing the replies to the Amended Motion of the Fund and the United States;
- (ii) grant oral argument on the Amended Motion; and
- (iii) grant such other relief as is just and proper.

In accordance with Local Rules 7.1 and 112.1, counsel for the Fund has conferred with counsel for Hyde and the United States Attorney's Office in advance of filing this motion.

Dated: May 11, 2006

Respectfully submitted,

THE BOARD OF TRUSTEES OF THE PUBLIC
SCHOOL TEACHERS' PENSION AND
RETIREMENT FUND OF CHICAGO,

By its attorneys,

CRAIG AND MACAULEY
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UNITED STATES OF AMERICA

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CERTIFICATE OF SERVICE

I hereby certify that on this day I caused a true and accurate copy of the foregoing *Joint Motion For Reconsideration*, to be served on the parties electronically and/or as set forth below at the addresses indicated by first-class United States mail postage prepaid on May 11, 2006:

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